



## **DECISION TO STRIKE OUT**

**Case no. CH/02/8894**

**Đuro and Zora DUKIĆ**

**against**

**THE FEDERATION OF BOSNIA AND HERZEGOVINA**

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the Second Panel on 5 February 2003 with the following members present:

Mr. Mato TADIĆ, President  
Mr. Jakob MÖLLER  
Mr. Mehmed DEKOVIĆ  
Mr. Manfred NOWAK  
Mr. Vitomir POPOVIĆ  
Mr. Viktor MASENKO-MAVI

Mr. Ulrich GARMS, Registrar  
Ms. Olga KAPIĆ, Deputy Registrar  
Ms. Antonia DE MEO, Deputy Registrar

Having considered the aforementioned application introduced pursuant to Article VIII(1) of the Human Rights Agreement ("the Agreement") set out in Annex 6 to the General Framework Agreement for Peace in Bosnia and Herzegovina;

Adopts the following decision pursuant to Article VIII(3)(c) of the Agreement as well as Rules 49 and 52 of the Chamber's Rules of Procedure:

## **I. INTRODUCTION**

1. This case concerns the applicants' attempts to regain possession of their pre-war property, located at ulica Ibrahimpashića 1, Bosanski Petrovac, the Federation of Bosnia and Herzegovina.
2. On 3 June 1999, the applicants initiated a request for repossession of their pre-war property before the Department of Physical Planning, Resources and Development and Environmental Protection of the Municipality Bosanski Petrovac.
3. The applicants finally regained possession of their property in December 2002.

## **II. PROCEEDINGS BEFORE THE CHAMBER**

4. The application was introduced to the Chamber on 14 February 2002 and registered on the same day. The applicants complain that all their rights protected under the European Convention on Human Rights ("the Convention") have been violated. The applicants ask the Chamber to grant them compensation for the time period during which they were not enabled to use their property.
5. On 19 December 2002, the applicant Zora Dukić informed the Chamber that she had repossessed her pre-war property. In the same letter, the applicant asked to be compensated for pecuniary damage in the amount of 200 KM (Convertible Marks) per month, starting 7 years ago. She informed the Chamber that her husband died because they had been living in very bad conditions.

## **III. OPINION OF THE CHAMBER**

6. In accordance with Article VIII(3) of the Agreement, "the Chamber may decide at any point in its proceedings to suspend consideration of, reject or strike out, an application on the ground that ... (c) for any other reason established by the Chamber, it is no longer justified to continue the examination of the application; provided that such a result is consistent with the objective of respect for human rights."
7. The Chamber notes that the applicants lodged their application with a view to regaining possession of their property, and while the case was still pending before the Chamber, the applicant Zora Dukić regained such possession. The Chamber further notes that although the applicant has been reinstated, she understandably asks the Chamber to find a violation of her rights protected by the Agreement due to the time that elapsed between the request for reinstatement into possession of the pre-war property and the actual repossession. She also asks the Chamber to order the respondent Party to pay compensation to her in recognition of the damage suffered by them.
8. The Chamber recalls that under Article VIII(2)(e) of the Agreement, "the Chamber shall endeavour to give particular priority to allegations of especially severe or systematic violations and those founded on alleged discrimination on prohibited grounds". As the Chamber has explained in the case of *Vujičić v. the Federation of Bosnia and Herzegovina* (case no. CH/99/2198, decision to strike out of 10 October 2002, Decisions July–December 2002), there are presently thousands of undecided applications pending before the Chamber, and this number is growing month by month. Moreover, significant progress in the return and property law implementation process in Bosnia and Herzegovina has occurred (*id.* at paragraphs 15-16).
9. Taking into account that the applicant has been reinstated into possession of her property, the Chamber considers that the ongoing alleged human rights violation has been brought to an end and the main issue of the application has been resolved. The Chamber recognises that valid reasons may underlie the applicant's request to nonetheless maintain her claim for compensation. However, in the light of the considerations discussed above, the Chamber finds that "it is no longer justified to continue the examination of the application" within the meaning of Article VIII(3)(c) of the Agreement. The Chamber moreover finds that this result is "consistent with the objective of respect for human rights", as this "objective" must be understood to embrace not only the individual

applicant's human rights, but also the Chamber's more general mandate to assist the Parties in securing to all persons within their jurisdiction the highest level of internationally recognised human rights (Articles I and II of the Agreement).

10. The Chamber, therefore, decides to strike out the application, pursuant to Article VIII(3)(c) of the Agreement.

#### **IV. CONCLUSION**

11. For these reasons, the Chamber, unanimously,

**STRIKES OUT THE APPLICATION.**

(signed)  
Ulrich GARMS  
Registrar of the Chamber

(signed)  
Mato TADIĆ  
President of the Second Panel